

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

RLI INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	Civ. Act. No.: 5:18-cv-00066
v.)	
)	
NEXUS SERVICES, INC.,)	
)	
Defendant.)	Before: Michael F. Urbanski
)	Chief United States District Judge

AMENDED THIRD REPORT OF SPECIAL MASTER, PART ONE:
SECTION A OF OCTOBER 23, 2020 ORDER

The Special Master submits this Amended Third Report, Part One, as to status of Nexus's compliance with Section A of the 10/23/20 Order, **ECF 585** (the "Order"). The need for amendment arises from information set forth in an 8/6/2021 5:37 PM email from counsel for RLI and, in response to an 8/7/2021 11:30 AM email from the Special Master, information set forth in an 8/8/2021 7:31 PM email from counsel for RLI.

SECTION A.1

Section A.1 of the Order states:

With regard to ¶ 3.d. of the Indemnity Agreement, Nexus is **ORDERED** to deposit with RLI \$2.4 million on or before December 1, 2020, to be held by RLI as collateral security.

Section A.2 of the Order states:

Further, with regard to ¶¶ 2.a.(i) and 3.d. of the Indemnity Agreement, Nexus is **ORDERED** to pay RLI the penal sum for any breached bond as to which the government has issued a Notice to Deliver [NTD] on an RLI-bonded Nexus program participant. Nexus is **ORDERED** to pay RLI such additional security on an ongoing basis and within forty-eight (48) hours of its receipt of a Notice to Deliver [NTD] from the government.

As noted in the Second Report of Special Master, **ECF 693**, the Special Master asked in late April and early May 2021 that Nexus pay what it can when it can, and RLI apply such payments, towards Sections A.1 and A.2 of the Order (not towards Section B of the Order¹). On May 18, RLI confirmed that it would accept such payments as collateral security under Section A.1, and Nexus paid **\$50,825.00** as follows before July 15:

- \$2,500.00 on May 25, 2021;
- \$2,000.00 on May 26, 2021;
- \$15,500.00 on July 1, 2021;
- \$9,325.00 on July 1, 2021;
- \$16,500.00 on July 7, 2021;
- \$5,000.00 on July 8, 2021;²
- **\$50,825.00** SUBTOTAL BEFORE JULY 15, 2021.

RLI states that it has accepted these payments towards Nexus's obligation to pay Section A.1 collateral security (\$2,400,000.00) and Nexus's separate obligation to pay Section A.2 additional security (\$442,000.00 as of August 1).³

On July 13, RLI and Nexus, by counsel, confirmed a protocol (not an agreement) that:

- RLI would accept Section A payments via check, wire/ACH transfer, or money order;
- Nexus would commence deposit of 20% of its daily receipts with RLI on July 15;
- RLI would accept these payments towards both Section A.1 and Section A.2;
- RLI would apply these payments to either Section A.1 or Section A.2 in its discretion.

¹ Section B of the Order issues judgment of \$3,331,197.55 as damages. Order, **ECF 585**.

² Second Report, **ECF 693**, p. 2; Total Collateral Payments made by Nexus to RLI in 2021, **ECF 693-1**. Further to **ECF 693-1**, Nexus has also paid penal sums totaling **\$251,500.00** from February 16, 2021 forward (i.e., since entry of the Order on October 23, 2020) on 21 bonds for which DHS issued NTDs before entry of the Order. **ECF 693**, n. 3 and p. 3.

³ RLI reports that the total of the penal sums due under Section A.2, for breached bonds of which the government has issued a NTD on RLI-bonded participants, is \$442,000.00. Reply in Support of Renewed Request for Appointment [of TPA or Receiver], **ECF 709**, p. 7-9; Table of Outstanding Notices to Deliver, **ECF 709-10**.

Nexus Services, Inc.'s CFO, Rebecca Wells, CPA, reports in her August 5, 2021

Affidavit, including Exhibit A thereto, that Nexus has paid an additional **\$41,557.20** as follows:

- \$18.00 on July 19, 2021;
- \$5,000.00 on July 20, 2021;
- \$4,264.60 on July 21, 2021;
- \$7,453.40 on July 27, 2021;
- \$8,775.00 on July 28, 2021;
- \$7,053.40 on July 29, 2021;
- \$8,992.80 on July 30, 2021;
- **\$41,557.20 SUB-SUBTOTAL JULY 15 THROUGH JULY 30.**

RLI states that it accepted these payments, within three or four days of the dates noted, towards Nexus's obligations under Sections A.1 and A.2, as well as the following payments:

- \$4,279.60 per 8/5/2021 8:45 AM email;
- \$3,785.20 per 8/5/2021 8:45 AM email;
- **\$8,064.80 SUB-SUBTOTAL AUGUST 5;**
- **\$49,622.00 SUBTOTAL JULY 15 THROUGH AUGUST 5.**

Adding the pre- and post-July 15 SUBTOTALS yields a TOTAL of **\$100,447.00**, which

RLI has accepted towards Nexus's obligations under Sections A.1 and A.2.

- \$50,825.00 SUBTOTAL BEFORE JULY 15, 2021;
- \$49,622.00 SUBTOTAL JULY 15 THROUGH AUGUST 5;
- **\$100,447.00 TOTAL.**

In addition, the Special Master understands that Nexus sent payments in the following amounts, totaling **\$72,973.00**, based on the following emails from Nexus Services, Inc. to the Special Master, but confirmation from RLI is pending:

- \$7285.20 per 8/6/2021 8:45 AM email Payment Confirmation For 07/12/21;
- \$20,660.40 per 8/9/2021 8:30 AM email Payment Confirmation For Multiple Dates;
- \$19,618.00 per 8/9/2021 8:30 AM email Payment Confirmation For Multiple Dates;
- \$6,735.00 per 8/9/2021 8:30 AM email Payment Confirmation For Multiple Dates;
- \$16,674.40 per 8/9/2021 8:30 AM email Payment Confirmation For Multiple Dates;
- \$4,000 (**6554) per 8/9/2021 8:30 AM email Payment Confirmation For Multiple Dates;
- **\$72,973.00 TOTAL**

Further, the Special Master understands that Nexus attempted the following payments, totaling **\$44,092.00**, which apparently did not get through to RLI:

- \$13,749.20 per 7/19/2021 8:15 AM email;
- \$5,575.80 per 7/19/2021 8:20 AM email;
- \$11,661.60 per 7/19/2021 9:01 AM email;
- \$4,838.20 per 7/19/2021 9:06 AM email;
- \$4,133.60 per 7/19/2021 9:12 AM email;
- \$4,133.60 per 7/19/2021 9:12 AM email;
- **\$44,092.00 TOTAL.**

Exhibit B to Ms. Wells Affidavit indicates payment of **\$50,000.00** as follows

- \$10,000.00 on July 27, 2021;
- \$10,000.00 on July 25, 2021;
- \$10,000.00 on July 16, 2021;
- \$10,000.00 on July 16, 2021;
- \$10,000.00 on July 16, 2021;
- **\$50,000.00 TOTAL.**

RLI states that it accepted these payments and that they appear as the last two entries, in the amounts of \$30,000.00 and \$20,000.00, on the Table that RLI filed at **ECF 709-11**.

August 9, 2021

Respectfully submitted,
/s/ Gregory T. St. Ours
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Special Master

CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of eighteen (18) years and not a party to the within cause; that I am employed in the City of Harrisonburg and my business address is 100 South Mason Street, Harrisonburg, Virginia 22801. I hereby certify that on this 9th day of August 2021, a copy of the foregoing "Amended Third Report by Special Master, Part One: Section A of October 23, 2020 Order" was served electronically via the Electronic Case Filing (ECF) system to all parties requiring notice as appropriate.

/s/ Heather VanLear
Heather VanLear